

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
United Healthcare Services, Inc. Petition for	)	
Declaratory Ruling Regarding Reassigned	)	CG Docket No. CG 02-278
Wireless Telephone Numbers	)	
	)	
Rules and Regulations Implementing the	)	
Telephone Consumer Protection Act of 1991	)	

To: The Commission

**REPLY COMMENTS OF CEANNATE CORP, COALITION OF HIGHER EDUCATION  
ASSISTANCE ORGANIZATIONS, NATIONAL ASSOCIATION OF COLLEGE  
AND UNIVERSITY BUSINESS OFFICERS, AND NATIONAL  
COUNCIL OF HIGHER EDUCATION RESOURCES**

Ceannate Corp (“Ceannate”), the Coalition of Higher Education Assistance Organizations (“COHEAO”), the National Association of College and University Business Officers (“NACUBO”), the National Association of Student Financial Aid Administrators (“NASFAA”), and the National Council of Higher Education Resources (“NCHER”) submit these comments in support of the United Healthcare Services, Inc. (“United Healthcare”) Petition for Expedited Declaratory Ruling Regarding Reassigned Wireless Telephone Numbers. Specifically, these entities respectfully urge the Commission to exercise its discretion and expeditiously grant the United Healthcare petition and confirm that parties are not liable under the Telephone Consumer Protection Act (“TCPA”)<sup>1</sup> for informational, non-telemarketing autodialed and prerecorded calls to wireless telephone numbers that have been reassigned without the caller’s knowledge as long as the caller had obtained “prior express consent” to place calls to that telephone number.

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<sup>1</sup> 47 U.S.C. §227.

## **I. INTRODUCTION**

Ceannate Corp. and its subsidiaries engage at all points in the credit and loan program lifecycle, including Federal Student Aid (FSA) programs, and provide assistance to FSA's Default Collections Division, Federal Family Education Loan (FFEL) guarantors, post-secondary educational institutions, and hundreds of thousands of current and former students as they enter repayment and to help them avoid delinquency or default on their student loan obligations.

COHEAO was founded in 1981 and has served as a partnership of colleges, universities, and organizations dedicated to promoting Federal Campus-Based loan programs and other student financial services. COHEAO serves as a source for informative and timely updates for its members in light of the demand for information in the areas of student financial services, compliance, and federal legislative and regulatory issues.

NACUBO is a membership organization representing more than 2,500 colleges, universities, and higher education service providers across the country and around the world. The association's mission is to advance the economic viability and business practices of higher education institutions in fulfillment of their academic missions.

NCHER represents a nationwide network of guaranty agencies, secondary markets, lenders, loan servicers, collection agencies, schools, and other organizations involved in the administration and servicing of federal and private education loans. NCHER members promote student access and choice for postsecondary education and training.

Collectively, our groups interact with and support almost every college and university in the United States in relation to financial aid processing and assistance for students. In these capacities, we have come to appreciate first-hand the harm caused to student loan borrowers, taxpayers, and the Federal government by the unintended consequences of outdated Commission

rules promulgated under the TCPA. We support the position taken by United Healthcare in its Petition. We believe that clarification of how calls to reassigned cell phone numbers will be treated is critical to our continued ability to contact students and student loan borrowers to provide much-needed services and support as they seek to understand and manage their student loan responsibilities.

**II. THE REASSIGNMENT OF A WIRELESS TELEPHONE SHOULD NOT THREATEN THE EXISTENCE OF AN ENTITY THAT IS ACTING IN GOOD FAITH AND HAS OBTAINED PRIOR EXPRESS CONSENT.**

Cellular telephone usage is replacing traditional landline phone service at a growing rate. The most recent report from the Centers for Disease Control<sup>2</sup> documents that 54.1 percent of all American households now are exclusively or predominately wireless. Thus, it is not surprising that telephone companies recycle as many as 37 million telephone numbers each year.<sup>3</sup> It is also not surprising that often, consumers do not always remember to notify all of the organizations with which they do business or interact when they change their cell phone numbers.

Because there does not exist a comprehensive, definitive directory of wireless telephone numbers, there is not a practical, cost-effective way for determining in advance if a cell phone number has been changed. In light of the fact that the TCPA itself was enacted to reduce unwanted calls, it would be counterintuitive to suggest that organizations should have to place repeated calls to cell phone subscribers to reconfirm a wireless number before it is dialed. Moreover, the Commission has noted that, even when notice of a number reassignment is received by an organization, it takes time to update calling lists. That is the rationale behind the Commission's conditional, 15-day safe harbor for land line numbers recently ported to wireless.<sup>4</sup>

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<sup>2</sup> National Health Interview – National Center for Health Statistics, released June 2013.

<sup>3</sup> Alyssa Abkowitz, *Wrong Number? Blame Companies Recycling*, WALL STREET JOURNAL (Dec. 1, 2011)

<sup>4</sup> 47 C.R.R. § 64.1200(a)(1)(iv); *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 27 FCC Rcd 1830 ¶ 9 (2004).

**III. IT IS INCONSISTENT WITH THE LAW ITSELF TO IMPOSE LIABILITY FOR CALLS TO REASSIGNED NUMBERS FOR WHICH PRIOR CONSENT HAS BEEN OBTAINED.**

As noted above, it is not possible to avoid entirely calling reassigned wireless telephone numbers given the volume of numbers reassigned each year and the lack of a public wireless telephone number directory. Organizations and business that have properly and in good faith followed the tenets of the law and gained consent to call a number have no other practical means to prevent calls to that number when it has been unknowingly reassigned. It is patently unfair and counter to the purpose of the TCPA to subject those entities to liability. Neither Congress nor the Commission has required entities to reacquire consent before every call. And the Commission has noted that it does not want to “unnecessarily restrict” informational calls to cell phone numbers.<sup>5</sup>

**IV. FAILURE TO GRANT THE PETITION JEOPARDIZES THE ABILITY TO REACH MILLIONS OF STUDENT LOAN BORROWERS AND PROVIDE THEM WITH NEEDED INFORMATION AND SERVICES.**

If the United Healthcare Petition is not granted, members of organizations like ours which contact students and borrowers to provide them with critical information and services regarding the management and payment of their student loans will be forced to expose themselves to significant litigation risk or curtail or even cease providing that information. This would have a seriously harmful impact on students and student loan borrowers at a time when more not less information and assistance is needed. To force this draconian choice upon the Department of Education, guaranty agencies, loan servicers, institutions of higher education, and their contractors is inconsistent Congress’ intent and the FCC’s goals.

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<sup>5</sup> See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 27 FCC Red 1830 ¶ 21 (2012).



## V. CONCLUSION

Our organizations represent a broad range of stakeholders in the higher education community who support students in their pursuit of their postsecondary goals from enrollment in college, financial aid processing, counseling, financial literacy and, eventually, loan repayment and default collection. For the foregoing reasons, we urge the Commission to issue a declaratory ruling confirming that parties are not liable under the TCPA for informational, non-telemarketing calls to telephone numbers that have been reassigned without the caller's knowledge – as long as the caller previously obtained valid "prior express consent" to place calls to that telephone number.

Respectfully submitted,



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*On Behalf of the Commenters*

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